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RAILROAD

January 21, 2004

Mr. Kenneth H. Blodgett
Environmental Protection Specialist
Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: **Tongue River Railroad Company, Inc. - Finance Docket 31086 (Sub-No. 3) - Construction and Operation of the Western Alignment**

Montana Department of Fish, Wildlife & Parks Correspondence on Fish Hatchery Issues

Dear Mr. Blodgett:

This will report to you on the status of our discussions on behalf of Tongue River Railroad Company ("TRRC") with the Montana Department of Fish, Wildlife & Parks ("FWP") regarding the Miles City Fish Hatchery. At the suggestion of Dan Walker, the Chairman of the FW&P Commission, Mr. Walker and I met with Gary Bertellotti (Hatchery Bureau Chief), Larry Peterman (Chief of Field Operations) and Bryce Christensen (Region 7 Supervisor) on July 11, 2003 to discuss issues involving the Miles City Fish Hatchery. I believe that the meeting was informative and beneficial and provided the basis to move forward in developing appropriate measures and programs to address hatchery concerns as the TRRC project moves forward. The following key issues were identified during the discussion and summarized in my letter to the agency on July 14, 2003 (copy attached): hatchery water supply pipelines protection; weed control management plan; coal dust emissions and train speed; alternative route assessment; future block management/conservation easement/fishing access; and, hatchery operation baseline study.

Following a summer season during which FW&P personnel were faced with a number of critical issues, i.e., drought, low stream flows and fires, I sent a follow up letter to Mr. Bertellotti on September 10, 2003 (copy attached). As you will note, the September 10th letter attached proposed language for addressing three of the issues raised by FW&P and offered comments on the remaining points.

Attached is a December 8 reply letter received from Mr. Gary Bertellotti regarding the potential effects of the TRRC line on the Hatchery. Mr. Bertellotti's letter restates the issues

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identified by the agency. As noted previously, TRRC had submitted proposals to address many of the issues; however, these proposals were not in all cases discussed in his December 8 letter. Accordingly, in order to provide you with a complete picture of the status of our consultations with FW&P, TRRC's proposals in each relevant area are summarized below. They are also discussed in more detail in my September 10, 2003 letter. We are continuing our dialogue with FW&P and hope to be in a position to offer additional information in the coming weeks.

Water Supply Line(s) TRRC has proposed several measures to ensure the protection and long-term viability of water supply pipelines serving the hatchery including relocating, as necessary, portions of the water supply pipeline so that each pipeline crosses the rail right of way at a right angle or perpendicular to the rail alignment and encasing that portion of each pipeline lying perpendicular to the rail alignment in reinforced concrete pipe of sufficient size to allow for inspection and maintenance.

Weed Control. The existing mitigation measures issued in *TRR I* include requirements to develop a weed control plan in conjunction with appropriate local agencies. TRRC will commit that this plan will incorporate only mechanical means of weed control in the right of way adjacent to the hatchery. Should the use of herbicides become necessary in the right of way adjacent to hatchery, TRRC will further commit that any herbicide application would be subject to prior approval from FW&P.

Coal Dust. Coal dust emissions from coal handling are associated with loading and unloading activities. The erosion potential for transported coal reduces as the coal is transported due to coal dust settling and compacting to the bottom of the rail car. The Montana Department of Environmental Quality has stated that coal dust should settle to the bottom of the rail cars with the first few miles of the mine site. The coal in the rail cars will have been transported a minimum of 80 miles prior to reaching the area of the Miles City Fish Hatchery. Therefore, no emission of coal dust near the facility is anticipated and, thus, there should be no cumulative impacts to the hatchery from coal dust.

Access, Block Management and Conservation Easements. The *TRR I* mitigation measures identify steps to be taken during the right of way acquisition process. These measures would address access, block management and conservation easements. The two conservation easement agreements reference the existence of the approved rail alignment and contain provisions to be followed during right of way acquisition, including the role of FW&P.

Alternative Analysis. TRRC has provided FW&P with copies of Appendix B from the ICC's EIS for *TRR I*, which discusses various alternative alignments and the issues related to each alternative. TRRC has advised FW&P that our understanding is that the Supplemental EIS will include a discussion of the screening process which examined a number of alternatives.

Baseline Scientific Study. At a meeting on July 11, 2003, FW&P and TRRC agreed that MT FW&P would develop a draft design scope of work for a baseline study to include monitoring parameters, timeframes and criteria for conducting a monitoring program to establish

baseline information for hatchery operations and gauge the impacts of the line, if any, on hatchery operations. FW&P and TRRC agreed to work cooperatively to finalize the study design and to complete that design prior to the commencement of construction. Monitoring would commence prior to construction of the line proximate to the hatchery and continue during construction and the initial operation of TRRC line. The monitoring will be used to determine whether the construction and operation of the line has any measurable impact on hatchery operations. In addition, the study plan will include mitigation measures for addressing impacts, if any are determined.

We will continue to update you as our discussions with FW&P continue. Please let me know if you have any questions.

Sincerely,

Douglas A. Day

Enclosures

TONGUE RIVER RAILROAD

July 14, 2003

Mr. Gary Bertellotti
Montana Fish, Wildlife & Parks
1420 East 6th Avenue
P. O. Box 200701
Helena, MT 59620

Dear Gary:

I wanted to thank you, Larry Peterman, Bryce Christensen, and Dan Walker for taking the time to meet with me to discuss the Miles City Warm Water Fish Hatchery and the proposed Tongue River Railroad project. I believe the meeting was informative and beneficial to our being able to move forward in developing appropriate measures and programs for continued hatchery operations as the TRR project moves forward.

During the course of the meeting we discussed a number of topics and options for responding to the Department's concerns summarized as follows:

- Hatchery water supply pipelines – TRR will develop proposed mitigation language for MT FW&P review pertaining to a plan to protect the hatcheries water supply pipelines from the Yellowstone River and Tongue River. The plan will include necessary provisions for protecting, relocating, encasing and providing access to the pipelines during construction and operation of the TRR. The final design plan would be agreed upon by MT FW&P and TRR prior to construction.
- Herbicide use – TRR will develop a proposed management plan for the control of weeds along the TRR right-of-way adjacent to the hatchery. The plan will incorporate mechanical means of weed control, and, if necessary, the use of herbicide only under controlled means of application such as by hand sprayer.
- Coal dust – TRR will summarize information relative to train speed and wind direction as it may effect wind movement of coal dust from passing coal cars.
- Alternative routes – TRR provided copies of Appendix B from the EIS completed by the Interstate Commerce Commission pertaining to the Miles City to Ashland alignment. Preparation of the EIS included a scoping and screening process which examined a number of alternatives for the TRR alignment, including the northern end of the alignment at Miles City. TRR will encourage the STB to incorporate a discussion of the screening process into the pending Supplemental EIS.

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- Future block management/conservation easement/fishing access – MT FW&P noted that land access along the alignment could become important in the future. The proposed placement and design characteristics of cattle/vehicle underpass structures along the TRR alignment and the proximity of the rail alignment to the Tongue River and private property interests was discussed. If appropriate or requested by MT FW&P, TRR will provide additional information regarding the proposed locations and design of the underpass structures.
- Hatchery operation baseline study – the MT FW&P will develop a draft design scope of work, including monitoring parameters, timeframes and criteria, for conducting a monitoring program to establish baseline information of hatchery operations prior to commencement of construction of the TRR. The Department and the TRR will work cooperatively to finalize the study design. The monitoring would continue during construction and initial operations of the TRR and be used to determine whether the construction and operation of the TRR has measurable impact on hatchery operations. The plan would incorporate mitigation measures for addressing impact mitigation.

I believe the essence of our discussion is captured herein and I look forward to your comments and/or questions concerning the above summary.

Sincerely,

Douglas A. Day

cc. Dan Walker
Larry Peterman
Bryce Christensen

RAILROAD

September 10, 2003

Mr. Gary Bertellotti
Montana Fish, Wildlife & Parks
1420 East 6th Avenue
P. O. Box 200701
Helena, MT 59620

Dear Gary:

I understand you have had a very busy summer what with the extended fire season and continued drought and low stream flow conditions in Montana. As a follow up to my letter of July 14, 2003, I have taken the initiative of drafting proposed language for three of the six topics outlined in that letter. The enclosures address the following topics: hatchery water supply pipelines; weed control management plan; and, coal dust emission and train speed.

The three topics not addressed by enclosures to this letter and *my comments* thereto are as follows:

- Alternative routes – TRR provided copies of Appendix B from the EIS completed by the Interstate Commerce Commission pertaining to the Miles City to Ashland alignment. Preparation of the EIS included a scoping and screening process which examined a number of alternatives for the TRR alignment, including the northern end of the alignment at Miles City. TRR will encourage the STB to incorporate a discussion of the screening process into the pending Supplemental EIS. *[Gary – based on conversations with Public Affairs Management it is my understanding the Supplemental EIS will include a discussion of the screening process referenced herein.]*

- Future block management/conservation easement/fishing access – MT FW&P noted that land access along the alignment could become important in the future. The proposed placement and design characteristics of cattle/vehicle underpass structures along the TRR alignment and the proximity of the rail alignment to the Tongue River and private property interests was discussed. If appropriate or requested by MT FW&P, TRR will provide additional information regarding the proposed locations and design of the underpass structures. *[Gary – if you would like additional information regarding locations and design of the underpass structures, please let me know.]*

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- Hatchery operation baseline study – the MT FW&P will develop a draft design scope of work, including monitoring parameters, timeframes and criteria, for conducting a monitoring program to establish baseline information of hatchery operations prior to commencement of construction of the TRR. The Department and the TRR will work cooperatively to finalize the study design. The monitoring would continue during construction and initial operations of the TRR and be used to determine whether the construction and operation of the TRR has measurable impact on hatchery operations. The plan would incorporate mitigation measures for addressing impact mitigation. *[Gary – I assume you are developing the monitoring parameters, timeframes, etc.]*

Should you have any questions or comments, please do not hesitate to give me a call.

Sincerely,

Douglas A. Day

cc. Dan Walker
Larry Peterman
Bryce Christensen

Proposed mitigation measures to ensure the protection and long-term viability of the water supply pipelines serving the Miles City Warm Water Fish Hatchery from the Yellowstone River and the Tongue River.

- Currently there are two water supply pipelines serving the Miles City Fish Hatchery, one a 24" diameter line from the Yellowstone River and the second a 14" diameter line from the Tongue River.
- It is critical that the integrity of these water supply pipelines be maintained during the construction and operation of the Tongue River Railroad.
- The following measures are to be undertaken in order to protect and ensure the integrity of the water supply pipelines during construction and operation of the Tongue River Railroad. The Tongue River Railroad will be responsible for all costs associated with implementing these measures:
    - Relocate, as necessary, portions of the Yellowstone River and Tongue River water supply pipelines so that each pipeline crosses the rail right-of-way at a right angle or perpendicular to the rail alignment.
    - To ensure the structural integrity of the water supply pipelines, that portion of each pipeline lying perpendicular beneath the rail alignment will be encased in a reinforced concrete pipe ("RCP"). The RCP will be of sufficient size to allow for inspection and maintenance of the water supply pipelines.
    - Access to the pipelines beneath the rail alignment will be provided by installation of reinforced concrete manholes, located on each side of the rail alignment. The RCP and

manholes will meet or exceed the American Railway Engineering Association's ("AREA") Standard Specifications for installation of utilities underneath railway embankments.

- In those locations where the supply lines will be relocated to cross the rail alignment perpendicularly, new pipe and connectors will be installed that meet or exceed the diameter and pressure requirements of the existing water supply pipeline.
- The final design plans for the relocation of sections of the water supply pipelines and the installation of the concrete pipe and manhole components will be prepared by the Tongue River Railroad during final engineering and design and submitted to the Montana Fish, Wildlife & Parks for approval prior to the start of construction. All features associated with the water supply pipeline relocation/reconstruction, RCP casing, and manholes will be designed to meet or exceed "AREA" and/or "Montana Public Works Standard Specifications."

Tongue River Railroad Company - Weed Control Management

General Weed Control Management

Prior to the construction of the Tongue River Railroad project, a weed control plan ("plan") will be developed in conjunction with appropriate state and local agencies responsible for weed control in Custer, Powder River, Rosebud and Big Horn counties. The plan will be designed and implemented for the full length of the rail alignment from Miles City to the southernmost terminus point with the primary objective being to control the establishment and spread of noxious weeds along the rail alignment.

The TRR weed control plan will incorporate both mechanical control methods and herbicide application. If mechanical means are not adequate to control the spread of some species of concern, a combination of mechanical and herbicide application may be necessary. Only those chemicals approved and licensed by the State of Montana will be used to control trackside weeds. The chance of herbicide transport to properties adjacent to the rail right of way is dependent on wind direction, wind speed, and other atmospheric conditions.

TRR Weed Control In Proximity to Miles City Warm Water Fish Hatchery

Radian International on behalf of TRR performed an air quality evaluation to assess the potential effect of TRR operations on the Miles City Fish Hatchery. The evaluation assessed the following: effect of coal dust emissions from open railroad cars during transportation; and, the use of herbicides along the rail right of way. The results of Radian's evaluation are presented in Appendix 7 to the "Miles City State Fish Hatchery

Investigation to Assess Potential Effects of the Construction and Operation of the Tongue River Railroad", Womack & Associates, Inc., March 1999).

Pursuant to Radian's recommendation, TRR intends to use only mechanical means of weed control in its right of way adjacent to the Miles City Warm Water Fish Hatchery between the point the rail alignment crosses Interstate 94 north to the connection with the Burlington Northern Santa Fe Railway mainline.

Generally, the prevailing winds in the vicinity of the Miles City Warm Water Fish Hatchery are from the northwest and southeast. The winds in the area are from directions that would carry from the rail alignment towards the hatchery facility less than 20 percent of the year.

If it becomes necessary to utilize herbicide application to control noxious weed infestation along the TRR right of way between Interstate 94 north to the BNSF Railway's mainline, TRR agrees that any herbicide application will be subject to prior approval from the Montana Fish, Wildlife & Parks and the use of herbicide would be used only under controlled means of application such as by hand sprayer.
Montana Fish, Wildlife & Parks prior approval will be required as to the type of herbicide to be applied, application rate, means of application and will take into consideration wind speed and wind direction at the time herbicide application is proposed.

Train Speed, Coal Dust Movement

Train Speed

The Miles City Warm Water Fish Hatchery is located adjacent to the northern terminus point of the Tongue River Railroad with the Burlington Northern Santa Fe Railway main line. At the northern terminus, the TRR connects with the BNSF in a "Y" configuration, allowing rail traffic to flow either to the west or to the east. The western "Y" is on a 3°56'16" degree curve and the eastern "Y" is on a 2°59'59" degree curve. Empty coal trains traveling on the BNSF from either the west or the east and connecting with the TRR and loaded coal trains traveling north on the TRR and connecting with the BNSF will be required to gradually reduce speed in order to safely navigate these curve and switches.

Train performance modeling completed by Corporate Strategies, Inc. ("CSI") on behalf of TRR indicates that train operations will be limited to a maximum speed of approximately 20 mph in order for unit coal trains, either empty or loaded, to safely navigate the degree of curvature and run onto or leave the BNSF mainline at the northern terminus. In order to reach safe operating speeds at the terminus, trains will have to begin reducing speed approximately 0.5 to 1.0 mile prior to reaching the terminus point. Train operating speeds on the BNSF main line, in the vicinity of the TRR terminus, are limited to 30 mph.

Train engineers are licensed by the Federal Railroad Administration ("FRA") pursuant to requirements specified in 49 CFR 240. Locomotives are manned by two crewmen, a conductor with the responsibility for train

movement and an engineer with the authority to control train operations. Both are responsible for safe operation in accordance with BNSF operating rules and dispatcher or signal movement authority. Devices (event recorders) are installed on most modern train locomotives to monitor operation of the unit, including train speed. Train crews exceeding train operational limits are subject to discipline by the rail operator (with oversight by the FRA).

In addition to FRA regulations, the fact that trains entering or leaving the TRR alignment will be either exiting or entering BNSF mainline traffic requires low operating speeds to allow for safe traffic convergence. It is estimated by CSI that actual train operating speeds at the northern terminus will not exceed 20 mph.

Coal Dust Movement

Radian International on behalf of TRR performed an air quality evaluation to assess the potential effect of TRR operations on the Miles City Fish Hatchery. The evaluation assessed the following: coal dust emissions from open railroad cars during transportation; and, the use of herbicides along the rail right of way. The results of Radian's evaluation are presented in Appendix 7 to the "Miles City State Fish Hatchery Investigation to Assess Potential Effects of the Construction and Operation of the Tongue River Railroad", Womack & Associates, Inc., March 1999). The methodology and results of Radian's evaluation relative to coal dust movement are contained in the report referenced above and summarized below.

Coal dust emissions from coal handling are typically associated with loading and unloading activities at the mine site or destination point. The erosion potential for transported coal is greatest at the mine site and decreases thereafter due to coal dust settling and compacting to the bottom of the rail car during transport. A 1984 article regarding coal dust fugitive emissions stated, "Coal fines tend to accumulate in the bottom of the rail car from vibrations in transit." (Stein, Crow, 1984) Also, the Montana Department of Environmental Quality, Air Quality Bureau has stated that coal dust should settle to the bottom of rail cars within the first few miles of the mine site (Radian International, 1999).

Radian findings show that, if a train is traveling at speeds of 47 mph or less, there will be no emission of coal dust from the rail cars as they pass the hatchery facility. The Miles City Fish Hatchery is located adjacent to the area where the TRR connects with the BNSF main line and train speeds are limited to 20 mph. The coal in the rail cars will have been subject to a minimum of 80 miles of transport and to greater train speeds prior to reaching the terminus at Miles City and will have had sufficient time to settle in the rail cars. As a result of train operations in the vicinity of the Miles City Fish Hatchery, the emission of coal dust near the facility will not occur.

Montana Fish, Wildlife & Parks

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December 8, 2003,

Douglas A. Day
Tongue River Railroad
2280 Grant Road
Suite B, Box 80902
Billings, MT 59108-0902

Dear Mr. Day;

Responding to your letter of September 10, 2003, I would like to address each issue you have identified as it pertains to the water supply line for Miles City Hatchery (MCH), weed control and management proposals along the proposed TRR rail line near and across the Miles City Hatchery and the issue of coal dust. Other issues including access along the TRR route, block management, conservation agreements, alternate routes, and the baseline scientific studies to assess potential impacts to hatchery infrastructure and production capabilities all need to be addressed. The critical nature of all these issues dictate complete analysis prior to construction or associated ground activities.

Millions of sportsmen's dollars have been invested into MCH, block management, conservation easements, and programs to provide access for hunting and fishing along the Tongue River. FWP desires to protect our investment and provide for the public it serves. The use of federal funding for MCH's operations, maintenance and construction dictates that FWP meet strict requirements as to what FWP may allow at MCH. Failure to meet those requirements could result in forfeiture of millions of dollars in federal WB and PR funding.

Our response to the issues that you addressed are provided below:

Protection of Water Supply Lines

The water supplies to the MCH are the most critical component of the hatchery that may be affected by the TRR. Protection and maintaining the integrity of both the Tongue River and Yellowstone River sources is our highest priority.

- Pipelines must be aligned to minimize the distance beneath all railroad structures. Access must allow unimpeded maintenance and for repairs. All proposals must protect pipelines from damage, long-term exposure to vibration, freezing, shifting caused by frost heave, and high water events that may cause washouts. There are several options that are available however the best option should be determined based on final conditions and design.
- Any activity that would involve changes to the hatchery must be scheduled to minimize impacts to hatchery operations and approved by FWP.

In principle the suggestions outlined in your letter are sound, however lack of details makes it difficult to provide anything more specific in our response.

Weed Control Plan

Any weed control must incorporate the effects if weeds invade hatchery property, incorporate control methods that are not harmful to the hatchery and fish production, and are done by reputable and insured operators.

- Under any plan there must be protective measures that address FWP concerns regarding fish, hatchery infrastructure, and weed control for FWP property and potential cumulative effects.
- A fire protection plan must also be developed to protect land, personnel, and structures on the hatchery.
- All activities will require prior approval by FWP.

Coal Dust

Coal dust will be an issue only if there could be a negative impact on the hatchery. Potential impacts to personnel, fish or ground contamination should be addressed in the baseline study. When or if a rail line is built the assumption would be that the line will be operational long into the future. Although short-term potential effects may be undetectable, after long-term operations (20 years or more) cumulative effects may pose problems that were initially not apparent. It is the unknowns of cumulative affects that could jeopardize the long-term viability of MCH.

Train Speed

Train speed by the hatchery most likely will determine vibration levels. Vibration is a critical component in the potential impacts to the infrastructure, fish production, and operations. As you are aware FWP's major concern beyond the water supply are the potential affects that vibration will have on all aspects of the hatchery and fish production. The initial study proposal was very specific in addressing actual (not theoretical) impacts to fish, infrastructure, and operations at MCH. Since there are so many unknowns in this area there is little to no information that has any correlation

related to these species and MCH. Since Montana's warm water fish program is dependant on MCH, it is imperative that any studies agreed upon meet the intent of the original baseline study profile.

Currently discussions with University of Idaho staff are ongoing, to determine what criteria and methods should be used to address vibration and effects to fish, infrastructure, and operations at Miles City Hatchery. It would be FWP's hope to identify specifics that would provide both FWP and TRRC the opportunity to formulate a plan that would address potential impacts or avoid impacts before they arise.

To meet the obligations as identified by the U. S. Fish and Wildlife Service - Federal Aid program, to protect the operations and production of warm water fish for FWP's stocking programs, and to assure a successful pallid sturgeon propagation program at MCH, FWP will look at all options including recommendations to change the alignment of track so it no longer crosses FWP land and MCH.

Three Topics for Discussion:

Although you did not address three topics in you letter, all three are important to FWP and will need to be addressed. Details concerning access for sportsmen, scientific studies for MCH, and potential for an Alternate route around the hatchery must be addressed and incorporated into the Supplemental EIS written by PAM.

Sincerely,

Gary Bertellotti
Hatchery Bureau Chief

C: Larry Peterman
Chris Hunter
Bryce Christensen